



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-3873
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE
AUDITOR-CONTROLLER

ASST. AUDITOR-CONTROLLERS

ROBERT A. DAVIS
JOHN NAIMO
JAMES L. SCHNEIDERMAN

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TO: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Wendy L. Watanabe
Auditor-Controller

SUBJECT: **ALLEGED AERO BUREAU IMPROPRIETIES (Board Agenda April 3, 2012, Item 2) – PHASE II REPORT**

On April 3, 2012, your Board instructed the Auditor-Controller (A-C) to conduct an investigation of alleged misconduct by employees of the Sheriff's Department (Sheriff's) Aero Bureau (Aero) as described in a Sheriff's internal report. The Board's instructions were based on allegations made to the Sheriff's and to the news media by several informants.

Our review included seven topical areas. Due to the complexities and scope of our review, we addressed five topical areas on contract bidding and procurement processes in our Phase I report, which was issued on October 10, 2012. Topics six and seven of work hour/overtime abuse, misuse of County aircraft, and a general complaint about retaliation, are addressed in this Phase II report. A review summary and details of our Phase II findings are included as Attachments I and II.

Background

We reviewed records from the Countywide Timekeeping and Payroll Personnel System (CWTAPPS), the electronic Countywide Accounting and Purchasing System (eCAPS), Board correspondence, and applicable sections from the Sheriff's Manual of Policy and Procedures (MPP) and the Aero Bureau Manual (ABM). We also interviewed managers and staff from the Sheriff's Internal Affairs Bureau (IAB), who conducted a contemporaneous administrative review of the same allegations referenced by the

informant and the Board. In addition, we reviewed pertinent evidentiary documents provided by the IAB, including time and flight records, e-mails, and when appropriate, we relied upon their interview transcripts and summaries. We also interviewed Aero managers and staff.

Aero provides air support for law enforcement ground units involved in police activity and search and rescue operations in multiple jurisdictions in the greater Los Angeles area. The Sheriff's MPP indicates Aero is also responsible for transportation of personnel performing official duties, emergency transportation of County employees, flights for Aero operations and support, and training of Aero personnel, among other tasks.

In December 2009, the A-C issued its audit report on the Sheriff's Payroll/Personnel operations that included assessments from a department-wide perspective on issues similar to those raised by the informants within Aero, including excessive overtime and violations of the Department's work schedule rules. The Sheriff's agreed to implement the A-C's recommendations to improve overtime and work schedule monitoring and controls. Most of the informants' allegations of work hour and overtime abuse relate to events that occurred before the audit report was issued and/or during the time that broad changes to the Department's policies and practices were underway.

Summary of Findings

Work Hour and Overtime Abuse (See Attachment I, Numbers 1 to 7)

Work Hour Abuse

An informant alleged that an Aero employee attended helicopter flight school during County work hours. Our review revealed that, based on school records and witness testimony, the employee did attend flight school on County time. However, Sheriff's policy permits on-the-job training, and the former employee had his supervisor's approval to attend the training during County work hours. The employee retired prior to the initiation of our review.

Overtime Abuse

An informant alleged a number of variations of overtime abuse, including:

- Overtime in Aero was not being distributed fairly.
- Certain Aero staff were paid for "large amounts" of overtime, but were not often observed working on weekends.
- Aero managers deliberately short-staffed helicopter flights to give the appearance that overtime was needed.
- Aero staff were "creating" overtime by inflating missed service call statistics.

- Aero duty planning documents were either falsified or changed to support the need for more overtime.

We did not find evidence that substantiated any of the overtime abuse allegations. Sheriff's was in the process of strengthening overtime controls and oversight during the time period of the informant's allegations. Concurrent with strengthening controls, the Sheriff's implemented overtime reduction goals Department-wide that has reduced the number of overtime hours available for Sheriff's personnel.

Misuse of County Aircraft and Retaliation (See Attachment I, Numbers 8 and 9)

Misuse of County Aircraft

An informant alleged that Aero managers approved the use of the Department's aircraft for flights that were outside of policy guidelines. We selected a sample of three alleged flights that could be considered egregious misuse of County assets, and substantiated the allegation.

- Flight to Arizona: Aero staff admitted to using the Sheriff's King Air plane to travel to Arizona in July 2010, approximately six weeks after the Board's direction to limit the County's economic connection to Arizona unless pre-approval is given by the Chief Executive Office. The three Subjects joined a flight to transport detectives to Phoenix as part of a kidnap investigation, but the Aero staff continued on a second portion of the trip to Tucson to attend an Airborne Law Enforcement Association conference. An additional round-trip King Air flight to Tucson three days later, indicated as a "training flight" in Sheriff's records, appears to have been for the purpose of picking up the Aero staff at the conclusion of the conference.
- Flight to a Retirement Event: We confirmed that a Department helicopter assigned to patrol duties was used in June 2010 to transport a Commander's daughter from Calabasas to East Los Angeles for the Commander's retirement party.
- Cross-Country Flight: The Department's King Air plane was used in 2008 to transport seven Aero staff from Los Angeles County to Connecticut. It appears likely that commercial flights to Connecticut would have cost much less than the estimated cost to use the King Air plane. Aero management informed Office of County Investigations (OCI) Investigators that the flight to Connecticut had the dual purpose of providing cold weather training for the pilot.

Our review identified recommendations for the Sheriff's to strengthen procedures for recordkeeping and monitoring aircraft usage, and the need to clarify appropriate use of aircraft and the levels of approvals required above the rank of personnel on the flight.

The Sheriff's also needs to document the evaluation of alternative modes of transport before each use of the King Air plane for cross-country trips.

Retaliation

An informant claimed that he was transferred out of Aero and had his flight pay taken away for "no reason" in retaliation for his complaints about Aero operations. Our review did not substantiate that the informant was subjected to retaliation by the Sheriff's. The informant's transfer was within the purview of Sheriff's management, and in compliance with his union's Memorandum of Understanding. The informant's flight pay was appropriately discontinued when he was no longer working for Aero.

Review of Report

We discussed the results of our review with Sheriff's management. The Sheriff's indicate general agreement with our findings, and they will provide a detailed response to your Board within 30 days.

We thank the Sheriff's management and staff for their cooperation and assistance throughout our review. Please call me or your staff may contact Guy Zelenski, Chief of the OCI, at (213) 893-0058 if you have any questions.

WLW:GZ:RS:AMS

R-2012-6667 Phase II
BOS #-12-013

Attachments

c: William T Fujioka, Chief Executive Officer
Leroy D. Baca, Sheriff
Sachi A. Hamai, Executive Officer, Board of Supervisors

**REVIEW SUMMARY OF ALLEGATIONS
DESCRIBED IN THE SHERIFF'S INTERNAL REPORT**

The following table summarizes the nine allegations addressed in our Phase II report as identified from the Sheriff's internal report and/or from media reports, including the allegation category, allegation description, and investigative conclusions. Further details are described in Attachment II.

Summary of Allegations and Investigation Conclusions				
#	Category	Attachment II Page #	Allegation	Conclusion
1	Work Hour Abuse	Page 1	Subject 1 allegedly attended helicopter flight school during County work hours.	Not substantiated. The subject was approved to participate in helicopter flight training during County work hours.
2	Overtime Abuse	Page 2	In early 2010, Aero deputies told an informant that Aero overtime was not being distributed fairly.	Not substantiated. Overtime hours were distributed in compliance with policies in effect at that time.
3	Overtime Abuse	Page 4	Subject 2 was paid for large amounts of overtime in 2009; however, he allegedly was observed working overtime only one weekend every few weeks.	Not substantiated. The subject worked significant overtime in 2009; however, this was not unusual Department-wide. The Department has since taken measures to significantly reduce overtime.
4	Overtime Abuse	Page 5	Aero managers deliberately scheduled short-staffed helicopter flights to give the appearance that overtime was needed.	Not substantiated. In-Service Sheets do not support that flight crews were deliberately scheduled short-staffed.
5	Overtime Abuse	Page 6	Subjects 2 and 3 created overtime by causing "missed calls" in Aero.	Not substantiated. The specifics of the informants' allegations are not supported by Aero flight records, and Aero complied with Department-wide mandates to measure missed calls due to overtime reductions.

6	Overtime Abuse/ False Records	Page 7	Subject 5 may have changed In-Service Sheets to reflect that deputies did not work back-to-back double shifts, when in fact they had.	Not substantiated. The In-Service Sheets are not the official timekeeping document, and the Department has controls in place to monitor double shifts.
7	Overtime Abuse/ False Records	Page 9	Aero managers falsified In-Service Sheets to reflect staff on duty when they actually were not.	Not substantiated. The In-Service Sheets are a working document subject to multiple changes, and are not the official timekeeping document.
8	Misuse of County Aircraft	Page 10	Aero managers have used the Sheriff's aircraft for personal use and/or unapproved trips.	Substantiated. Aero staff used the King Air plane and helicopters for several questionable flights, including a flight to Arizona when such travel was subject to restrictions established by the Board of Supervisors.
9	Retaliation	Page 15	Subject 1 was transferred out of Aero and had his flight pay taken away for no reason.	Not substantiated. The subject's union Memorandum Of Understanding does not provide any guarantee or rights to an assignment. The subject's flight pay was appropriately stopped when he no longer served as a pilot.

**SHERIFF'S DEPARTMENT
ALLEGED AERO BUREAU IMPROPRIETIES
PHASE II**

Results of Investigation

The Board of Supervisors' (Board) April 3, 2012, motion included a request for a review of allegations described within the Sheriff's Department's (Sheriff's) internal investigative report, as well as allegations made by informants. Based on our review of Sheriff's documentation and the informants' complaints, we identified nine allegations related to work hour and overtime abuse, misuse of County aircraft, and retaliation, which are addressed in this report. Allegations pertaining to other areas, such as bidding, purchasing, and contracting, were addressed in our October 10, 2012, Phase I report.

We have summarized the nine allegations pertaining to work hour and overtime abuse, misuse of County aircraft, and retaliation, as Attachment I, accompanied by our investigative conclusions. The nine allegations are addressed in this report within three categories as follows:

- Work Hour and Overtime Abuse – Seven allegations (1 through 7)
- Misuse of County Aircraft – One allegation (8)
- Retaliation – One allegation (9)

Work Hour and Overtime Abuse (Allegations 1 through 7)

Allegation 1: Subject 1 allegedly attended helicopter flight school during County work hours.

Findings

The Sheriff's Manual of Policy and Procedures (MPP) Section (§) 2-11/020.00, Office of Homeland Security (OHS), Aero Bureau (Aero), states that, among other functions, Aero is responsible for training of Aero personnel. Aero Bureau Manual (ABM) § 3/020.00, Pilot Selection and Training, outlines the pilot selection criteria and describes the training curriculum in general terms. However, neither manual specifies whether an employee can attend flight school during County work hours. County department management typically has discretion to approve on-duty employee training.

Aero management told Auditor-Controller (A-C) Office of County Investigations (OCI) Investigators that staff who wish to become pilots must have a fixed wing aircraft license (private pilot) before assignment to Aero is considered. Subject 1 obtained a private pilot's license before his assignment to Aero and, according to his statements to Sheriff's Internal Affairs Bureau (IAB) investigators he attended helicopter flight training primarily during work hours from April 21, 2010 to August 11, 2010. The Countywide

Timekeeping and Payroll Personnel System (CWTAPPS) reflects that Subject 1 recorded regular hours worked during this period, with the exception of several vacation days.

Aero management confirmed that Subject 1 was approved to attend helicopter training during County work hours. During our review, a number of witnesses told OCI and IAB Investigators that during the time Subject 1 was in helicopter pilot training, he was observed studying what they believed were training materials during County work hours. Subject 1's alleged misconduct occurred more than two years ago, and he has since retired from County service.

Conclusion

Aero management approved, and witness statements support, that Subject 1 attended helicopter training during County work hours. However, Department policy provides that job training is part of Aero's basic functions, and Aero management has the discretion to select and train the staff they believe are best suited for a helicopter pilot position based on established qualifying criteria.

Allegation 2: In early 2010, Aero deputies told an informant that Aero overtime was not being distributed fairly.

Findings

An informant alleged that in early 2010, he was told by unnamed deputies that overtime in Aero was not being distributed "fairly". Allegedly, overtime was only being given to selected staff, including Subjects 2, 3, and 4, and other unnamed deputies. The informant did not provide any further details, such as the specific overtime needs of Aero at the time, or reasons why the overtime may have "only [been] given" to certain individuals.

Several Aero supervisors indicated that some deputies, including Subject 4, actively sought available overtime, including at other Sheriff's locations. According to Sheriff's timekeeping staff, the overtime worked by Aero staff at other Sheriff's locations is commingled within Aero's annual overtime totals. Therefore, we cannot determine if overtime worked by Subjects 2, 3, and 4 was in fact worked at Aero, and can therefore not substantiate if overtime was distributed in reasonable accordance with established Department policy. We could not determine the equitability of assigned overtime because there is no clear record of:

- Special skills that may have been required for the particular assignment on a specific shift;
- The actual availability of qualified deputies; and,
- Aero deputies may have worked some of their overtime elsewhere in the Department.

It is essential for management of overtime utilization that the Sheriff's establish a mechanism for periodically monitoring each employee's overtime. Monitoring needs to include a means for distinctly tracking overtime hours worked for each location at which an employee may have worked in addition to the employee's usual work assignment. This sort of tracking allows the Department to identify the actual overtime hours each employee works even if some or all of the hours are not worked at the employee's usual work assignment.

The Sheriff's MPP, § 3-02/010.16, Filling Vacancies, states in part that all employees of a unit with position vacancies shall have an "equal opportunity" to volunteer for overtime. The MPP further outlines a specific selection hierarchy for instances when more than one employee signs up for the same overtime opportunity, including that first preference will be given to the employee with the least total number of overtime hours worked in the current month.

ABM § 4/106.30 states that "pre-scheduled" overtime is to be distributed via a sign-up book and/or a sign-up sheet, and indicates that "Attempts will be made to fill overtime assignments using personnel who have worked the least amount of overtime during the calendar year". This section also delineates special provisions for overtime sign-ups for pilots, and for tactical flight deputies who fly with the helicopter pilots as observers, since there are flight and duty time restrictions on these assignments.

The County's Memorandum of Understanding (MOU) with the Sheriff's Deputies union, and the MOU with the Supervisory Peace Officers union, do not specifically address the issue of how overtime is to be assigned. Each of the MOUs contain grievance procedures for the resolution of complaints concerning working conditions, among other situations, that Department management has the ability to remedy.

We reviewed the number of overtime hours worked by sworn Aero Deputies and Sergeants during 2009 and 2010, as compiled by the Sheriff's Administrative Services Bureau, and ranked Aero's sworn staff according to total overtime hours worked. Subjects 2, 3, and 4 worked overtime in those years as follows:

Name	2009 Hours	Overtime Worked Ranking	Total # Sworn Staff	2010 Hours	Overtime Worked Ranking	Total # Sworn Staff
Subject 2	655.5	2	51	215.5	22	52
Subject 3	504.5	5	51	279.5	13	52
Subject 4	448.5	10	51	513.8	2	52

The Subject of another allegation, Subject 5, was a coworker and in a management position within Aero. Subject 5 told OCI Investigators that he transferred to Aero in 2010, and he did not know the specific overtime needs of the unit prior to that time. He stated that in 2009 and 2010 staff volunteered for overtime shifts by using sign-up sheets in compliance with the ABM. Subject 5 acknowledged that overtime work may

not have been distributed equitably in part because off-duty deputies occasionally called Aero to have their on-duty friends sign them up for overtime.

Subject 5 told us that because of complaints to the deputies' union, overtime is now distributed strictly in accordance with the hierarchy indicated in the Sheriff's MPP. He stated that a timekeeper tracks all overtime worked, and when overtime is available, Aero management generates a report indicating how many overtime hours have been worked by each staff. Staff who have the least number of overtime hours worked are given priority. We noted that a deputies' union publication dated December 2009 credits its successful negotiations with Sheriff's management for standardized overtime policies to end "allegations of favoritism".

Conclusion

The allegation that overtime was not being distributed fairly is not substantiated. Aero management admitted some staff were relatively more proactive at signing up early for available overtime. Sheriff's data confirms that Subjects 2, 3, and 4 worked comparatively more overtime hours than most other Aero staff in 2009 and 2010. Given the many conditions that factor into overtime assignment, such as special qualifications, staff availability, and willingness to accept overtime work, and the fact that the overtime hours worked by some staff may have been at locations other than Aero, we are unable to determine if total overtime worked by the Subjects is linked to favoritism.

Allegation 3: Subject 2 was paid for large amounts of overtime in 2009; however, he allegedly was observed working overtime only one weekend every few weeks.

Findings

According to an informant, in 2009, Subject 2 earned \$70,000 in overtime pay. We confirmed Subject 2's overtime earnings based on historical County payroll data. In statements to Sheriff's investigators conducting an internal review, the informant indicated Subject 2 must have worked the maximum number of overtime hours allowed to earn that much money, and yet the informant observed Subject 2 working only one weekend every few weeks.

County Fiscal Manual (CFM) § 3.1.6 indicates that employees must certify to the accuracy of the hours worked that they report on their timecards. The Sheriff's MPP § 3-02/010.15, Work Schedules, states that employees shall not work more than 96 hours of overtime per calendar month.

As indicated above, Subject 2 recorded 655.5 hours of overtime worked in calendar year 2009, an average of approximately 12.5 hours per week in addition to his forty-hours a week of regular time. OCI Investigators reviewed Subject 2's master time records in CWTAPPS and noted that in 2009, he generally worked a compressed forty-hour work week. An employee on a compressed work week completes a traditional 40-

hour work schedule in less than five days. Subject 2 recorded overtime on weekdays he was off, overtime on his regular work days in addition to his regularly scheduled shifts, and some overtime worked on weekends. Of note is that the informant was one of Subject 2's superior officers at that time, and would have been responsible for oversight of Subject 2's work hours when they worked overlapping shifts.

On December 18, 2009, the A-C issued a report resulting from its Sheriff's Payroll/Personnel Review which identified a number of Sheriff's employees who worked more than 600 overtime hours in one year, and noted that management did not always monitor individual overtime worked. The A-C recommended that Sheriff's management implement additional overtime policies and controls to limit excessive overtime.

In response to the A-C's audit, and because of Countywide budget challenges, in early 2010 the Sheriff's implemented measures to significantly curtail overtime. We noted that overtime hours worked by Aero's sworn personnel decreased by more than 30% from 2009 to 2010, and by 80% from 2010 to 2011. The amount of overtime worked by Subject 2 decreased at a similar or greater rate. He reported 215.5 overtime hours in 2010, a 67% decrease, and 51 hours in 2011, a 76% decrease from the previous year.

Conclusion

The allegation that Subject 2 was paid for "large amounts" of overtime in 2009 that he did not work is not substantiated. The allegation that Subject 2 earned substantial overtime while only working one weekend each month is also not substantiated.

According to CWTAPPS, Subject 2 recorded overtime hours on regular work days, on his regular days off, and on weekends, and earned approximately \$70,000 in overtime pay. Subject 2's average monthly overtime in 2009 (55 hours) and 2010 (18 hours) did not exceed the Department's 96-hour per month limit. The informant provided no further evidence to refute the accuracy of overtime hours reported on Subject 2's time records.

Allegation 4: Aero managers deliberately scheduled short-staffed helicopter flights to give the appearance that overtime was needed.

Findings

Sheriff's patrol helicopters typically fly with a minimum of two staff: a pilot and an observer. An informant alleged that in October 2010, Aero managers deliberately scheduled flights with an observer but no pilot to give the appearance that overtime was necessary. The informant cited one example of scheduled air patrol on October 7, 2010, when he alleges that helicopter Air 21 or Air 22 was scheduled with an observer but no pilot.

Board proceedings from March 2010 reflect that, in response to the A-C's December 2009 report, the Sheriff's and the Chief Executive Office (CEO) developed strategies to

identify and implement additional overtime policies and controls, with the goal of significantly reducing overtime. Since that time, the Sheriff's has periodically reported to the Board on the impact of overtime curtailments on service levels, operations, and the Department's public safety mission. The informant believed that, in an effort to restore the overtime budget, Aero management intentionally short-staffed flights to show an increasingly negative impact on the ability of Aero to send helicopters to respond to emergencies.

An Aero manager completes Air Support Daily In-Service Sheets each day to document staff on duty, and the function to which each staff is assigned. We reviewed Aero's Air Support Daily In-Service Sheets for Monday, October 4 through Friday, October 8, 2010, and noted that the sheets contain both typed and hand-written names and notations. We found one instance, on October 5, 2010, where for one shift the name of a tactical flight deputy (i.e., an observer) was typed in (pre-scheduled) on the In-Service Sheet for the Air 21 helicopter, and "OT Elimination" is typed in where the pilot's name should be listed. The name of a pilot is hand-written on this sheet indicating that a pilot was identified for this air patrol assignment. The In-Service Sheet for this day also indicates that for the same shift, two other air flights were indicated as "OT Elimination" for both the pilot and the observer positions. We found no concerns with the In-Service Sheets for October 7, the day identified by the informant.

Aero management denied intentionally planning helicopter flights without necessary staff to create the appearance that overtime should be reinstated. Subject 5 and Aero supervisors told us that the In-Service Sheets are staff planning documents that may be completed up to a week in advance, and there are many reasons for indicated vacancies such as vacations, unanticipated absences, and the Department's enforced curtailment of overtime. Aero managers also told us that the scheduled staffing indicated on the In-Service Sheets frequently changes.

OCI Investigators noted that the time frame of this allegation, October 2010, was more than six months into the Sheriff's commitment to the Board to significantly reduce overtime. According to calendar year 2010 data from the Sheriff's reports to the Board, by October 2010, Department-wide overtime had been reduced by approximately 75%.

Conclusion

The allegation that Aero managers deliberately scheduled short-staffed helicopter flights to give the appearance that overtime was needed is not substantiated. The only evidence the informant cited was a single example of a helicopter flight that he claimed was purposely scheduled without a pilot. Aero management denied intentionally short-staffing any flights. It appears likely that helicopter assignments were eliminated because overtime was not available.

Allegation 5: Subjects 2 and 3 created overtime by causing "missed calls" in Aero.

Findings

According to the informant, during October and November 2010, Subjects 2 and 3 told Aero staff to not inform the Sheriff's Communication Center (SCC) when pilots were on the ground taking their mandatory break between flights. By doing this, the SCC would continue to dispatch calls for air support, the pilots would be reported back as "unavailable", and a "missed call" would be recorded. The informant claimed that this practice inflated the number of missed calls, which were later reported to Sheriff's management and the Board to demonstrate a need for overtime in Aero. The informant did not provide any documentation, such as specific call or flight logs, to support the claim that calls for service were mischaracterized as "missed" when pilots were dispatched calls during mandatory break times.

We reviewed an e-mail the informant provided to Sheriff's IAB investigators, sent by Subject 3 in September 2010, which describes some of the procedures for recording missed calls. The e-mail indicates specific examples of missed calls, e.g., a missed call should be logged if a request for air support comes in while an air crew is already deployed on another call. It further states that when responding via radio, Aero staff should state an aircraft is "unavailable", and not announce that a helicopter is not available due to overtime elimination or a mandatory break. We noted that the e-mail merely provided clarifications, and did not contain any language that suggested missed calls should be exaggerated.

The Sheriff's reports back to the Board generally describe in detail the number and types of service calls missed by each of its functional units, including in Aero. There is no distinction between a missed call due to an aircraft working an incident or an aircraft on the ground due to mandatory air crew breaks. Overtime in Aero declined significantly from 2010 to 2011. Therefore, it appears the number of missed calls for helicopter service reported by Aero managers in 2010 did not "create" additional overtime, as alleged, and there is no additional overtime link to air crews taking mandated breaks.

Conclusion

The allegation that Subjects 2 and 3 created overtime by causing "missed calls" in Aero is not substantiated. During the time period of the allegation, the Sheriff's was required to implement overtime reduction measures, and was ordered by the Board to report back bi-weekly on the effects of those cost-cutting efforts. We found that, similar to all other Sheriff's operational units, Aero tracked calls for service that could not be answered because flight crews were not available.

Allegation 6: Subject 5 may have changed In-Service Sheets to reflect that deputies did not work back-to-back double shifts, when in fact they had.

Findings

An informant alleged that sometime in 2010, Sheriff's management indicated that deputies would be subject to discipline if they violated Department policy prohibiting working back-to-back double shifts. The informant claimed that after this memo was circulated, Subject 5 complained about his increased workload due to having to change In-Service Sheets to reflect that deputies had not worked back-to-back double shifts. The informant did not provide any additional details, such as during what time period the In-Service Sheets were allegedly changed, or how many were changed.

Sheriff's MPP § 3-02/010.15, Work Schedules, prohibits employees from working back-to-back double shifts, defined as a shift of 16 hours or more followed or preceded by another shift of 12 hours or more. The policy indicates that Watch Commanders may waive this limitation if, in their evaluation, staffing needs are critical, and they must document their justification of the waiver in a memo to the unit's Division Chief.

ABM § 4/106.30 indicates the In-Service Sheet is the document used to track personnel who are on duty each day. ABM also indicates the accuracy of the In-Service Sheet is the responsibility of the respective shift supervisor, who is responsible for verification of shift assignments and recorded variances.

The A-C's Payroll/Personnel Review included an analysis of the Sheriff's compliance with its work schedule rules/policies. A-C auditors reviewed a sample of time records for employees deemed "high overtime earners" and found that over half (60%) worked double shifts back-to-back. The A-C recommended that Sheriff's management re-train timekeepers on work schedule rules/policies to ensure they monitor and issue violation notices to the appropriate unit Commander. The Sheriff's agreed to implement this recommendation.

We found that a sample of In-Service Sheets from October 2010 contained multiple hand-written staffing changes. According to Aero management, the daily In-Service Sheets are used as a staffing projection and duty assignment roster, and are not used as official payroll documents. The In-Service Sheets are updated as staffing for the day is verified, including annotating the sheets to reflect staffing assignment changes, and staff who call in sick.

We reviewed a sample of correspondence between Aero management, OHS management, and the Department Timekeeping Unit, from calendar years 2010 through 2012 that documents work shift violations. The correspondence included an Aero plan to mitigate violations of the back-to-back double shift and excessive overtime rules, and a number of examples of notices to Aero management from the timekeepers indicating the unit discovered violations of the back-to-back double shift rule. In addition, Aero management documented that exceptions to the rules had occurred, and the unusual circumstances that led to the rule violations. Thus, it appears management controls were in place to document back-to-back double shifts, including when Aero violated Sheriff's procedures.

Subject 5 denied changing In-Service Sheets for the purpose of concealing violations of the back-to-back double shift rule. He stated that the sheets are used as a management tool to provide guidance as to where staffing resources should be allocated for the day. Subject 5 stated the In-Service Sheets are not the official time records for the Department. It is not possible to assess the accuracy of In-Service Sheets, nor to reconstruct based on these sheets the actual staff on duty within Aero more than a year after a shift has concluded.

Conclusion

The allegation that Subject 5 changed In-Service Sheets to conceal that deputies had worked back-to-back double shifts is not substantiated. Subject 5 denied changing the In-Service Sheets to hide work shift violations. The In-Service Sheets are used as a staffing and duty assignment tool, and are not an employee's official time record. We noted evidence that the Sheriff's has controls in place to reinforce policy compliance and initiate corrective actions as incidents of back-to-back double shifts have occurred.

Allegation 7: Aero managers falsified In-Service Sheets to reflect staff on duty when they actually were not.

Findings

An informant alleged that Aero managers "manipulated" the number of staff who worked shifts under the Cadre of Administrative Resources Personnel (CARP) program by falsifying In-Service Sheets. The CARP program was implemented by the Sheriff's in approximately March 2010 as a means to reduce overtime costs by using on-duty administrative staff to fill patrol or other non-administrative assignments. According to Sheriff's reports to the Board, the CARP program required sworn personnel who usually work administrative assignments to work 32 hours per week in their standard function, and work in a non-administrative CARP position for 20% of their time, or one shift per work week, to contribute to the reduction of overtime in the Department.

The informant claimed that an analysis of CARP shifts worked during a one-week period in October 2010 revealed "irregularities" that must have been "deliberate misconduct", such as Aero managers who were reported on In-Service Sheets as working in a CARP position although they may not have been on duty. The informant believed Aero was falsifying the In-Service Sheets to claim unearned credit for mandatory CARP shifts. It should be noted that during the time period in question the informant was the ranking manager when on duty if the Captain was off shift.

The informant cited an internal memo that was prepared by a Sheriff's employee on loan to Aero, which questioned the accuracy of the CARP shifts indicated on the In-Service Sheets, and questioned whether or not staff were present on certain days. The memo indicates that in some instances, Aero managers were reported on In-Service Sheets as working a CARP shift although they may not have been observed on duty.

We reviewed the CARP analysis memo that the informant referenced, which covered the week of October 3 through 9, 2010, and is dated October 10, 2010, and noted the memo contains a number of unsupported statements such as “It was suggested to me” that a particular Aero staff member “was never there”, “I was told he was not seen all day”, etc. The memo’s author did not indicate who made these statements to him, or provide any evidence of analysis to determine if in fact the Aero staff working a CARP shift was on duty.

The In-Service Sheets are used by Aero as a staffing plan for the various aircraft and unit duty positions, such as surveillance, general operations, and desk duty. We noted some position assignments on the In-Service Sheets for the week of October 2 through 9, 2010 were typed, some were hand-written, and a number of entries were changed by cross-outs or what appeared to be correction fluid. Aero management indicated that the In-Service Sheets may be changed several times, depending upon staff absences and assignment changes to address immediate needs. Time is of the essence when confirming if a staff is on duty, and the internal memo that is the basis for the informant’s allegation provides no indication of attempts to verify Aero staff’s actual attendance with managers who were on duty on the days in question. It is important to note that CARP shifts may not have been served within Aero which, particularly if served in a vehicle patrol function, would give the appearance that a staff is not on duty.

Conclusion

The allegation that Aero staff were listed on In-Service Sheets as working CARP shifts on days they were not on duty is not substantiated. In-Service Sheets serve as staffing plans, and may not be updated to reflect actual staffing. The fraudulent CARP allegation originated from speculation contained in an internal memo to Aero management. In addition, Aero staff indicated on the In-Service Sheets as serving a CARP assignment may not have been observed at work because they are filling a patrol, custody, or other front-line law enforcement position.

Misuse of County Aircraft and Retaliation (Allegations 8 and 9)

Allegation 8: Aero managers have used the Sheriff’s aircraft for personal use and/or unapproved trips.

Findings

Sheriff’s Field Operations Directive #08-01 outlines appropriate uses for the Department’s aircraft, and how non-routine requests to use the aircraft should be evaluated. The Directive lists a number of law enforcement related tasks that are considered acceptable usage of County aircraft, such as aerial patrol, search and rescue operations, emergency transportation of County employees, and training of Aero personnel. Requests for use of aircraft, other than the specific uses listed in the Directive, must include a stated justification, including the benefit to the Department, and be submitted to the unit Commander for approval.

According to ABM § 4/010.00, Deployment of Departmental Aircraft, Sheriff's aircraft shall generally be used for "law enforcement functions and responsibilities within Los Angeles County". In addition to services such as patrol and surveillance, the ABM includes flight training as an acceptable use of aircraft. The ABM also indicates that Aero is authorized, with the approval of the Division/Region Chief or Departmental Duty Commander, to provide interstate transportation to executives, detectives, and sworn personnel escorting prisoners. Requests for interstate air transportation are to be evaluated for appropriateness, considering the overall cost of the trip, and the availability of other resources.

The informant cited a number of flights that he deemed misuse of the aircraft. We selected a sample of three flights that, if they took place, could be considered misuse of County assets.

King Air Flight to Arizona – July 14-17, 2010

The informant alleged that between July 14 and 17, 2010, Subjects 2, 5, and 6 traveled in the Department's King Air plane to the Airborne Law Enforcement Association's (ALEA) annual conference in Tucson, Arizona. The informant stated that at the time of this flight, the Board had restricted County business with the State of Arizona in response to an Arizona immigration law. The informant claimed the reason for the trip was "disguised" as transportation of a detective to Phoenix, but the three Subjects had the flight continue on to Tucson. In addition, the informant alleged that the King Air was used again, on the pretext of a training flight, to return to Tucson to pick up the three Subjects and take them back to Aero's headquarters in Long Beach. The informant indicated the trip was costly, claiming that the two round-trip flights of the King Air cost approximately \$8,000.

On June 1, 2010, the Board approved a number of actions intended to limit the County's economic connection to Arizona. In response to a Board directive, on June 17, 2010, the CEO issued a memo to all Department Heads stating that, "Effective immediately, Departments must suspend any County business travel to the State of Arizona unless authorized by this Office under the terms of the Board motion". The memo also indicates that the Board directed that the CEO could approve travel if it found that, "the failure to authorize such travel would seriously harm the County's interests".

According to copies of the Sheriff's Department Form 591, Request for Approval for Training, Subjects 2, 5, and 6 requested approval to attend the ALEA conference. The "Purpose of Training" field on this form indicates that the training will "benefit the unit and the Department through better management of a complex aviation safety program." The Form 591 for Subject 5 bears the hand written notation "NO AZ TRNG!" at the top, and all three forms bear a diagonal slash mark over the respective cover pages. The training requests were not approved, and none includes a final approval signature from the Area Commander or Region Chief as required by the ABM. However, the three Subjects informed OCI Investigators that the denials of the request were for the training, not for the travel to Arizona even though the notations clearly state "NO AZ TRNG".

An Aero Bureau Air Support Patrol Activity Report (Activity Report) dated July 14, 2010, indicates that Aero staff flew two Sheriff's detectives to Phoenix, Arizona, in the King Air to pick up a kidnap victim. A second Activity Report, dated July 16, 2010, indicates that Aero staff flew a "Return flight from Tuscon, AZ to Long Beach" in the King Air. A pilot's Flight Training Report, dated July 16, 2010, indicates that one pilot was in training and the second was serving as an instructor. There is no notation on the Flight Training Report to indicate if there were passengers on the flight. The July 16 flight was a separate unauthorized round-trip journey in addition to the July 14 flight, not the return component of a single round-trip journey.

In a joint interview with the three Subjects and OCI Investigators, the Subjects confirmed statements they had previously made to IAB Investigators that they were passengers on the King Air flight to Tucson, Arizona, along with Sheriff's detectives who were travelling to Phoenix, Arizona, on law enforcement business. The Subjects stated they intended on driving to Arizona because of their belief in the importance of the ALEA conference to Aero's recent patrol helicopter purchase, but the opportunity to fly with the detectives presented itself just days before the conference. The detectives returned to California on the return portion of the July 14 flight. The Subjects admitted that they returned in the King Air from Tucson on a separate July 16 flight, a journey that was not pre-approved, and that they described as a training flight for the King Air's pilot.

Each Subject told IAB and OCI Investigators they believed there was a business need to go to the ALEA conference because Aero was in the midst of acquiring new helicopters. The Subjects described the Arizona conference as a unique opportunity to meet with and learn from vendors of avionics equipment being considered for the new patrol helicopter fleet, and to experiment with the equipment.

Each of the Subjects described varying levels of understanding of the Board's ban and the rules relative to not doing business and/or not traveling to Arizona. When asked by IAB Investigators about the "NO AZ TRNG!" notation on Subject 5's Training Request Form, Subject 6 claimed he and the other Subjects were not traveling to Arizona for training, and that the approval sheet was only for the hotel rooms. The Subjects claim they paid for their own accommodations and meals in Arizona. The Subjects' depictions of events are inconsistent with the facts, particularly the use of the King Air at considerable cost to the County for their transport, yet personal expenditures for their hotel rooms and meals.

Subject 6 told IAB Investigators that he made the decision for the three Subjects (including himself) to accompany the detectives on the King Air flight to Arizona, and to have Aero pilots fly a training flight back to Tucson to pick them up. Subject 6 stated he did not seek approval from the CEO for this travel, nor from his management from the Sheriff's. He admitted he knew about a moratorium against doing business with the State of Arizona, but he stated there was no prohibition on travel. The three Subjects described that they were learning from vendors at the conference, but that the vendors were headquartered in other states, and no business sales took place at the

conference. Subject 6 described the trip to the ALEA conference as “critical” to the County’s business interests, but that they were not conducting business.

Based on Aero’s cost figures for fiscal year 2009-10, the per-hour flight cost of the King Air is approximately \$1,260. Tucson is over 400 flight miles from Aero’s headquarters. The two round trips to Tucson total approximately eight hours at a total cost of about \$10,000 not including personnel salaries.

Conclusion

We substantiated that Subjects 2, 5, and 6 traveled to Tucson, Arizona, on the Sheriff’s King Air plane in violation of the County’s ban on business and travel with Arizona, without required CEO approval or approval from Sheriff’s management, and despite being told there was “NO AZ TRNG” in response to their internal request. The initial purpose of the July 14, 2010, flight to transport detectives to Phoenix, Arizona, as part of a kidnap investigation, complies with policy guidelines for appropriate use of a Sheriff’s aircraft. However, all three Subjects admitted they joined the detectives on the flight for the purpose of attending the ALEA conference without approval by Sheriff’s management, not as part of the effort to recover the kidnap victim. In addition, the flight had to continue on from Phoenix to Tucson where the conference was being held.

The second round-trip flight of the King Air from Long Beach back to Tucson on July 16 to pick-up the three Subjects also did not have CEO approval. The description of the second trip as a “training flight” appears notably convenient. In addition, approval was not obtained from a Region Chief or Unit Commander for the interstate transportation of the three Subjects per requirements of the Sheriff’s ABM.

Helicopter Flight to Retirement Party – June 2010

An informant reported he heard a “rumor” that Aero staff flew a Commander’s daughter from the Lost Hills Sheriff’s Station (located in Calabasas) heliport to Orange County to attend the Commander’s retirement party. The daughter had allegedly been delayed by highway traffic. The informant did not indicate when this flight took place. According to an e-mail provided by Sheriff’s IAB Investigators, a retirement party for the Commander named in the allegation was held at a Sheriff’s facility in East Los Angeles in June 2010. CWTAPPS reflects that this Commander retired in March 2010.

When interviewed by IAB Investigators, Subject 6 admitted that he approved the use of a helicopter to pick up the Commander’s daughter in Calabasas and transport her to a retirement event in East Los Angeles. According to the MapQuest website, this is a distance of approximately 40 highway miles. Subject 6 stated that the event was a Department function, that there was an “emergency”, and he made the decision to pick up the woman.

Subject 6 confirmed the Commander’s daughter was transported from Lost Hills Sheriff’s Station to the Commander’s retirement party by a Sheriff’s helicopter while the

helicopter was assigned to patrol duties. Subject 6 told OCI Investigators that one of his subordinates had already made the decision to pick up the Commander's daughter by the time Subject 6 learned about it. Subject 6 said he was also already at the retirement party, and that in retrospect he should have overruled the decision. We believe Subject 6 should have pursued disciplinary action for the subordinate who approved the flight.

Conclusion

We substantiated that a Department helicopter assigned to patrol duties was used in June 2010 to transport a retiring Commander's daughter from Calabasas to East Los Angeles for the Commander's retirement party. The use of the helicopter for this purpose is in violation of criteria established within the Sheriff's Field Operations Directive. No action was taken by Subject 6 once he had learned of the inappropriate use of the helicopter.

King Air Flight to Connecticut - 2008

An informant alleged that sometime in 2008, Subject 6 used the King Air plane for "personal use" to fly to Connecticut to research new helicopters for Aero. The informant stated Subject 6 flew the King Air to the Sikorsky helicopter facility in Connecticut because it was more convenient than flying commercially. The informant claimed flying the King Air across the country would have taken 14 hours (one way) due to the aircraft's relatively slow speed, and cost approximately \$28,000; much more than the cost of a commercial flight.

Subject 6 admitted to Sheriff's IAB Investigators that he and several other Aero staff used the King Air to fly to the Sikorsky factory in Stratford, Connecticut. He stated they went to gather information that ultimately would be beneficial to the replacement of Aero's older Sikorsky helicopters. Several Subjects also told us the King Air was flown to the east coast in part for cold weather flight training. Subject 6 provided the name of the unit Commander of Aero at that time who gave approval for the flight. We were unable to confirm if this flight was approved because the unit Commander retired in 2009.

During our Phase I review we determined that Aero is using Sikorsky rescue helicopters that are approximately 40 years old, and that their deteriorating condition was resulting in increasing maintenance costs. Aero recently contracted with another company to purchase three nearly new rescue helicopters.

We calculated an approximate cost of over \$35,000 to fly the King Air from Los Angeles to Connecticut, round trip, not including personnel salaries. Cost is a criteria Aero uses to assess whether the King Air is an appropriate mode of transport, along with the location of the destination, the number of personnel involved, and the nature of the trip (i.e., investigation, type of crime, etc.).

In an interview with OCI Investigators, Subject 6 clarified that there were seven Sheriff's personnel on the plane including the pilot. He also described the flight to Connecticut as a cold weather training flight for the King Air pilot in what Subject 6 described as the unique weather conditions not readily available for training within California. He also stated that the King Air is routinely required to fly to Colorado, Idaho, and Washington State where cold weather flight conditions may be encountered. Subject 6 went on to describe the purpose of the flight to include evaluation of aircraft to replace the aging Sikorsky fleet, use of a flight simulator, and to meet with military personnel and evaluate their surplus Blackhawk helicopters.

Conclusion

The allegation that the Department's King Air plane was used to transport staff to Connecticut is substantiated. The Sheriff's MPP indicates that transportation of personnel in the performance of official duties and for training are among the sanctioned activities for which an in-service aircraft may be used. However, the ABM specifies that requests for interstate air transportation are to be evaluated for appropriateness, considering the overall cost of the trip, and the availability of other resources. It appears that commercial flights to Connecticut would have cost substantially less than the estimated cost of \$35,000 to use the King Air plane, and would likely have been faster. In addition, there are closer regions of the country that could provide adequate cold weather training opportunities. Sheriff's management should document the evaluation of alternative modes of transport before each use of the King Air plane for cross-country trips, and provide higher level management oversight of the use of County aircraft for out-of-County travel.

Recommendations

Sheriff's management:

- 1. Take appropriate disciplinary and/or corrective action against Subject 6.**
- 2. Strengthen procedures for recordkeeping and monitoring of aircraft usage, including documenting all passengers on a flight, and each reason for a flight when there is more than one purpose.**
- 3. Strengthen existing policy to clarify appropriate use of aircraft, the levels of approvals required, including approvals above the rank of personnel on the flight.**
- 4. Document the evaluation and higher level management oversight of alternative modes of transport before each use of the King Air plane for cross-country trips.**

Allegation 9: Subject 1 was transferred out of Aero and had his flight pay taken away for no reason.

Finding

According to Subject 1's statements to Sheriff's investigators, he transferred to Aero in approximately June 2009, and per CWTAPPS, he began receiving a helicopter pilot's bonus on August 11, 2010. According to a Government Claim for Damages lawsuit filed by Subject 1 on April 13, 2011, he believes he was involuntarily transferred to another Sheriff's facility, lost his flight pay, and was "forced into early retirement" in retaliation for reporting alleged misconduct to Sheriff's management.

The Professional Peace Officers Association (PPOA) union MOU covers supervisory peace officers holding Subject 1's rank. Both the PPOA MOU and the Sheriff's MPP provide no right to a supervisor to remain in a particular assignment. We noted that similar to the deputies' MOU, the PPOA MOU contains procedures for supervisory staff to raise grievances about the impact of management decisions on wages and other conditions of employment. County Code § 6.120.020, Sheriff Salaries, indicates that sworn Sheriff's personnel who are assigned to the Aero detail as helicopter pilots on a permanent, full-time basis, and are required to fly regularly as a part of their duties, shall be given additional compensation.

According to e-mail correspondence between Subject 1 and Aero management during October and November 2010, and statements from several Aero staff to OCI Investigators, Subject 1 did not agree with certain operational aspects of Aero, and it appears there was dissension between Subject 1 and his subordinates and supervisor. As a result, Department managers decided it was in the best interest of the Department to transfer Subject 1 to another assignment within the Sheriff's. Subject 1's new assignment did not include duties as a pilot. According to CWTAPPS, Subject 1's helicopter detail bonus was therefore appropriately discontinued on February 13, 2011, and he retired from County service on March 21, 2011.

Conclusion

The allegation that Subject 1 was transferred out of Aero for no reason is not substantiated. All Sheriff's staff holding the same item classification as Subject 1 may be transferred to other assignments at the discretion of Sheriff's management. Subject 1 was transferred at the decision of Sheriff's management as the best interest of the Department.

The allegation that Subject 1's flight pay was taken away for no reason is not substantiated. As noted above, flight pay is specific to those assigned to Aero, with the requisite pilot licensure, and required to fly regularly as part of their duties. Subject 1 was provided with flight pay when he met the qualifications, and that pay was appropriately stopped in compliance with County Code when he no longer qualified.

The allegation that Subject 1 was “forced into early retirement” is not substantiated. Subject 1 provided no proof that he was forced to retire, and his decision to retire was a matter of his personal choice.